

REMARKS

Examiner has required restriction between Invention I, reading on claims 1-13 and 15-18, Invention II, reading on claim 14, and Invention III, reading on claims 19-21.

Applicants elect to prosecute Invention I, Claims 1-13 and 15-18. There is no change to inventorship. Applicants further traverse Examiner's restriction for the reasons below.

As to Inventions I and II, Applicants respectfully point out that there would be no reason to include trifluoromethyl iodide as a component of a blowing agent. The benefit of trifluoromethyl iodide lies in its chemical suppression characteristics, not in its compatibility with blowing agents. Further, Invention II requires a specific composition that thus could not be utilized with a different product. Accordingly, Examiner's restriction requirement for Invention II should be withdrawn.

As to Invention III, Applicants specifically cite trifluoromethyl iodide and carbon dioxide as chemical and physical combustion suppressants, respectively in Claims 20 and 21, and not the compositions mentioned by Examiner. Both compounds are found in the compositions of Invention I and accordingly, Examiner's restriction requirement for Invention III should be withdrawn.

Response to 112 Rejections

Examiner has rejected claims 1-13 under 35 U.S.C. 112 as being indefinite for failing to particularly point out an distinctly claim the subject matter which Applicants regard as their invention.

Applicants have amended claim 1, replacing the word "comprising" for the words "consisting of".

Applicants have amended claim 2, replacing the words “further comprising” with “having”.

Applicants have deleted the word “further” from line 1 of claim 4. Applicants have deleted the words “at least one” from lines 3 and 4 of claim 4.

Response to 102(b) Rejections and 103(a) Rejections

Examiner has rejected claims 1-7 and 15 under 35 U.S.C. 102(b) or 103(a) over Nimitz et al. (U.S. Patent No. 5,674,451).

Regarding Examiner’s rejection as anticipated by Example 13 of Nimitz et al. ‘451, said example discloses a disinfectant, not a sterilant. Applicants respectfully draw Examiner’s attention to the attached dictionary definitions of sterilize and disinfectant, wherein the former causes sterility and the latter removes infectious material. Accordingly, Applicants assert that a combination for disinfecting would not anticipate, or render obvious, a combination for sterilization.

Applicants have further amended claims 1 and 15 to reflect that the composition is a synergistic blend. This is supported in the specification at pages 9 at lines 6 and 11, page 13 at lines 4-10, page 14 at line 9, and page 15 at line 9.

Regarding Examiner’s alternative rejection as obvious over Nimitz et al. ‘451, Applicants assert that combinations of carbon dioxide and trifluoroiodomethane as suppressants for flammability of ethylene oxide have been found to be superior to the use of either carbon dioxide or trifluoromethane alone and thus are synergistic. **Applicant has provided a supplementary declaration hereto under 37 C.F.R. §1.67, including extensive data in support of the disclosed and claimed synergy, wherein the data were obtained, over several years, subsequent to the issuance of Nimitz et al. ‘451 at a cost of hundreds of thousands of dollars, demonstrating**

the unexpected synergistic benefits of combination of carbon dioxide and trifluoroiodomethane for suppressing flammability of ethylene dioxide.

Regarding Example 14, Applicants respectfully assert that there is no suggestion in the reference to combine trifluoroiodomethane with carbon dioxide, nor to replace nitrogen with carbon dioxide in the selected blend. Furthermore, it was only after substantial experimentation that Applicants were able to determine the synergistic nature of the compositions.

Examiner has rejected claims 8-13 and 16-18 under 35 U.S.C. 103(a) as being unpatentable over Nimitz et al. '451.

Again, Applicants respectfully point out that extensive data, involving substantial experimentation time and funds, was required to find the synergism of the combination disclosed in the present application.

Provisional Double Patenting Rejection

Examiner has provisionally rejected claims 1-13 and 15-18 over claims 6 and 11 of copending application 10/752,291 as obviousness-type double patenting.

Applicants take note of Examiner's provisional double patenting rejection and respectfully assert that claims 1-13 and 15-18 are patentably distinct over claims 6 and 11 of copending application 10/752,291, wherein claims 1-13 and 15 of the present invention disclose concentration ranges for chemical components and disclose inert propellants that are not included in claims 6 and/or 11 of copending application 10/752,291. Accordingly, Applicants respectfully request that Examiner withdraw said provisional rejection, or alternately hold same in abeyance until claims issue, over which claims in the copending application may be evaluated.

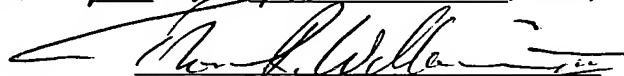
CONCLUSION

The above election and amendments are to form, and, thus, no new matter was added. Given Applicants' amendments and withdrawal of claims herein, Applicants' application should now be allowable. Applicants respectfully request that the application proceed to issuance in view of the amendments to the claims. Applicants reserve the right to file divisional applications and/or continuation-in-part applications during the pendency of this application and may pursue further examination of the rejected original and withdrawn claims, and Applicants specifically reserve the right to pursue the un-amended original and/or cancelled claims under such a related application.

In light of the election, the amendments to the claims, and Applicant's Remarks, Applicant respectfully believes that Examiner's rejection of claims 1 and 15 is traversed and that Examiner's rejection of claims depending from claims 1 and 15 is now moot, and that claims 1-13 and 15-18 are now allowable.

Applicant respectfully believes that Applicant's application is now in condition for allowance. Otherwise, should the Examiner have any questions regarding this submission, he is invited to contact the undersigned counsel at the address or telephone number below.

Respectfully submitted, this 17th day of March, 2005,

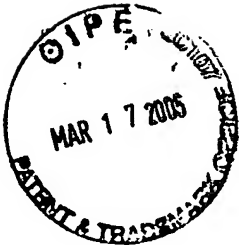


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I Thomas R. Williamson III, Esq. hereby state that the attached Supplemental Declaration for Utility Patent Application No. 10/729,133 under 37 CFR 1.67 as signed by Jonathan S. Nimitz, Stephanie D. Waldrop, Edward T. McCullough and Patrick M. Dhooge is a true, accurate and correct copy of the original Supplemental Declaration.

A handwritten signature in cursive script, appearing to read "T. R. Williamson III".

Thomas R. Williamson III, Esq.
Reg. No. 47,180